

STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

IN RE:	
LIBERTY UTILITIES (MIDSTATES NATURAL GAS) CORP. d/b/a LIBERTY UTILITIES	DOCKET NO. RPU-2016-0003

MOTION TO MODIFY PROCEDURAL SCHEDULE

The Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice, files this Motion to Modify Procedural Schedule in the above-captioned proceeding. In support of its motion, OCA states:

1. On July 25, 2016, Liberty Utilities (Midstates Natural Gas) Corp. d/b/a/ Liberty Utilities (hereinafter “Liberty”) filed an application to increase its Iowa jurisdictional natural gas rates.
2. Board Rule 7.13(1) requires that petitions to intervene be filed no later than 20 days following the order setting a procedural schedule (*i.e.*, September 6, 2016). As of the date of this motion, the only intervenor is the City of Keokuk. Keokuk’s intervention was granted on September 14, 2016.
3. On August 16, 2016, the Board established a procedural schedule in this docket. The procedural schedule requires that the direct testimony and exhibits of OCA and any intervenors be filed on October 26, 2016. The procedural schedule also requires that if OCA and intervenors find it necessary to file testimony in rebuttal to each other’s direct testimony, their rebuttal testimony must be filed on November 9, 2016.

4. The Board's August 16 Order also identified several deficiencies in Liberty's initial filing and required Liberty to file "additional information, either to correct filing deficiencies or to provide information necessary for the Board's review of the application." The additional was filed by Liberty on August 26, 2016.

5. A deadline of October 26, 2016 does not provide enough time for OCA to fully investigate the numerous issues raised in Liberty's initial application and the additional information filed on August 26, 2016. Rate cases involve multiple complex issues that require ample time for multiple rounds of data requests as well as time to review all information filed by the applicant and data responses in addition to drafting testimony. Insufficient time to investigate this and the other issues raised by Liberty will result in less than a complete development of the facts and issues in this case and is detrimental to Liberty's ratepayers

6. In addition, OCA's witnesses and attorneys have responsibilities in multiple other pre-existing dockets that impact their ability to investigate Liberty's application and prepare written testimony by October 26, 2016. Those dockets include: RPU-2016-0002, in which OCA witnesses filed direct testimony on August 5, 2016 and will be testifying at hearing on October 20, 2016; RPU-2016-0005, in which OCA witnesses filed testimony on September 16, 2016, and will testify at hearing on October 26, 2016 in a Board-expedited proceeding; and numerous Board-initiated rulemaking dockets with filing deadlines throughout August and September 2016.

7. Board rule 199 IAC 26.8(3) requires that "In setting the procedural schedule in a case, the board or administrative law judge *shall* take into account the existing hearing calendar and *shall* give due regard to other obligations of the parties, attorneys, and witnesses." (Emphasis added).

8. Full consideration of the time needed to conduct a thorough investigation of Liberty's Application and the other obligations of OCA's witnesses is required under Board rule 199 IAC 26.8(3). Procedural due process ensures that parties be given a reasonable opportunity to be heard that is "appropriate to the nature of the case" and that provides "an opportunity to present their objections." *In re Estate of Adams*, 599 N.W.2d 707, 710 (Iowa 1999). The deadline set for filing direct testimony in this docket does not provide sufficient time for investigation given the complex nature of a rate case and the preexisting demands from the Board on OCA's time.

9. The procedural schedule established by the Board could be modified without moving the hearing date. The schedule establishes November 9, 2016 as the deadline for OCA "and any intervenors" to file rebuttal testimony to each other's testimony. OCA has contacted Keokuk, and both parties agree that the November 9, 2016 testimony filing could be eliminated from the procedural schedule. OCA therefore requests that OCA and any intervenors have until November 9, 2016 to file initial testimony and that the remainder of the procedural schedule remain unchanged.

10. This change would still provide Liberty a month to prepare and file reply testimony (currently set for December 14, 2016). However, OCA would not object to modifications in the remainder of the procedural schedule if necessary.

WHEREFORE the Office of Consumer Advocate respectfully requests that the Board modify the procedural schedule in this docket and extend the date for the filing of the testimony, exhibits, and workpapers of OCA and the Intervenor from October 26 to November 9, 2016.

Respectfully submitted,

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